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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/459,788	06/02/95	HARVEY J	5634.243

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EXAMINER
CUMMING,W

ART UNIT	PAPER NUMBER
2744	

DATE MAILED: 12/31/97

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

☆U.S.GOVERNMENT PRINTING OFFICE 1996-411-518/40275

1- File Copy

☒ Responsive to communication(s) filed on _Sep 24, 1997_ _____ .

☒ This action is **FINAL.**

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle,* 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire ___ _three_ ___ month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) _5-34_ _____ is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) _5-34_ _____ is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☒ The drawing(s) filed on ___ _Jun 2, 1995_ ___ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐approved ☐disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

    ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

        ☐ received.

        ☐ received in Application No. (Series Code/Serial Number) _____ .

        ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

    *Certified copies not received: _____ .

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

DETAILED ACTION

1.   The Group and/or Art Unit location of your application in the PTO has changed.

To aid in correlating any papers for this application, all further correspondence

regarding this application should be directed to Group Art Unit 2744.

5

Information Disclosure Statement

2.   Receipt is acknowledged of applicant's Information Disclosure Statements filed February

6, 1996, April 7, 1997, and April 17, 1997 . In view of the unusually large number of references

10   cited in the instant application (approximately 2,200 originally and 645 in the subsequent IDS)

and the failure of applicant to point out why such a large number of references is warranted, these

references have been considered in accordance with 37 C.F.R. 1.97 and 1.98 to the best ability by

the examiner with the time and resources available.

15

3.   The foreign language references cited therein where there is no statement of relevance or

no translation are not in compliance with 37 C.F.R. 1.98 and have not been considered.

Numerous references listed in the IDS are subsequent to applicant's latest effective filing date of

9/11/87, therefore, the relevancy of these references is unclear. Also cited are numerous

5   references that are apparently unrelated to the subject matter of the instant invention such as: US

Patent # 33,189 directed toward a beehive, GB 1565319 directed toward a chemical compound, a

cover sheet with only the word *"ZING"*, a computer printout from a library search with the

words *"LST"* on it and a page of business cards including that of co-inventor James Cuddihy,

among others. The relevancy of these references cannot be ascertained. Furthermore, there are

10   several database search results listed in foreign languages (such as German) which list only the

title and document information; no copy has been provided, therefore, these references have not

been considered.

15

Drawings

4.   The drawings are objected to under 37 CFR 1.83(a). The drawings must show

every feature of the invention specified in the claims. Therefore, the step of receiving

an information transmission containing processor instruction and a program and the

step of programming the receiver station to perform a predetermined secondary error

correction routine in accordance with the processor instruction as stated by claim 5; the

step of clearing at least a portion of the memory as stated by claim 5; the step of one of

placing and replacing data at the memory to one of complete and correct a program

element in consequence of the step of executing a predetermined secondary error

correction routine as stated by claim 7; the step of receiving an information

transmission at a transmission station, the information transmission containing only a

portion of processor instruction and a program, the step of generating the remainder of

the program, the step of transmitting the information transmission containing the

program and the processor instructions, wherein the processor instructions program the

receiver to perform a predetermined secondary error correction routine in accordance

with the processor instructions, wherein the program enabled the receiver station to

perform a primary error correction routine by processing at least a portion of the

information transmission, discerning a failure evidencing one of an incomplete and an

incorrect program element by reprocessing information received in the information

transmission as stated by claim 23; the step of effects a transmission station to

generate a program, the receiver station to perform a primary error correction routine

by processing at least a portion of the information transmission, discerning a failure

evidencing one of an incomplete and an incorrect program element by reprocessing

information received in the information transmission, the step of effects a receiver

5   station to generate a program, the receiver station to perform a primary error correction

routine by processing at least a portion of the information transmission, discerning a

failure evidencing one of an incomplete and an incorrect program element by

reprocessing information received in the information transmission as stated by claim

24; and the method steps of claims 25-34, must be shown or the feature(s) canceled

10   from the claim(s). No new matter should be entered.

5.   Applicants are required to submit a proposed drawing correction in response to

this Office Action. Any proposal by the applicant for amendment of the drawings to

cure defects must consist of two parts:

15   a) A *separate* letter to the Draftsman in accordance with MPEP

        § 608.02(r); and

                b) A print or pen-and-ink sketch showing changes in *red ink* in

        accordance with MPEP § 608.02(v).

IMPORTANT NOTE: The filing of new formal drawings to correct the

noted defect may be deferred until the application is allowed by the examiner,

but the print or pen-and-ink sketch with proposed corrections shown in red ink is

required in response to this Office Action, and *may not be deferred.*

5

Claim Rejections - 35 USC § 112

6.   Claims 5-34 are rejected under 35 U.S.C. 112, first paragraph, as containing

subject matter which was not described in the specification in such a way as to

reasonably convey to one skilled in the relevant art that the inventor(s), at the time the

10   application was filed, had possession of the claimed invention.

The specification does not originally support and/or inadequately describe

the now claimed of the step of receiving an information transmission containing

processor instruction and a program and the step of programming the receiver

station to perform a predetermined secondary error correction routine in

15   accordance with the processor instruction as stated by claim 5; the step of

clearing at least a portion of the memory as stated by claim 5; the step of one of

placing and replacing data at the memory to one of complete and correct a

program element in consequence of the step of executing a predetermined

secondary error correction routine as stated by claim 7; the step of receiving an

20   information transmission at a transmission station, the information transmission

containing only a portion of processor instruction and a program, the step of

generating the remainder of the program, the step of transmitting the information

transmission containing the program and the processor instructions, wherein the

processor instructions program the receiver to perform a predetermined

5   secondary error correction routine in accordance with the processor instructions,

wherein the program enabled the receiver station to perform a primary error

correction routine by processing at least a portion of the information

transmission, discerning a failure evidencing one of an incomplete and an

incorrect program element by reprocessing information received in the

10   information transmission as stated by claim 23; the step of effects a transmission

station to generate a program, the receiver station to perform a primary error

correction routine by processing at least a portion of the information

transmission, discerning a failure evidencing one of an incomplete and an

incorrect program element by reprocessing information received in the

15   information transmission, the step of effects a receiver station to generate a

program, the receiver station to perform a primary error correction routine by

processing at least a portion of the information transmission, discerning a failure

evidencing one of an incomplete and an incorrect program element by

reprocessing information received in the information transmission as stated by

20   claim 24; and the method steps of claims 25-34. In order to satisfy *"written*

description" requirement of 35 USC §112 for drawings, the proper test is whether drawings conveys, with reasonable clarity to those of ordinary skill in the art, the claim subject matter. *"New matter"* prohibition of 35 USC §112 plays important role in establishing filing date of application as prima facie date of invention.

5 Patent laws do not permit insertion of additional descriptive matter subsequent to filing date in order to complete disclosure so as to conform specification's description of the invention to statutory standard (Ex parte Maizel, 27 USPQ2d 1662). The *"written description"* of the invention required by first paragraph of 35 USC §112 is separate and distinct from that paragraph's requirement of enabling

10 disclosure, since description must do more than merely provide explanation of how to *"make and use"* the invention. Applicants must also convey, with reasonable clarity to those skilled in the art, that applicant, as of the filing date sought, was in possession of the invention, with the invention being, for purpose of *"written description"* inquiry, whatever is presently claimed.

15

Claim Rejections - 35 USC § 103

7.   The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

8.   The factual inquiries set forth in *Graham v. John Deere Co.*, 148 USPQ 459, that

are applied for establishing a background for determining obviousness under 35

U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating
    obviousness or unobviousness.

5

10   9.   This application currently names joint inventors. In considering patentability of

the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

the various claims was commonly owned at the time any inventions covered therein

were made absent any evidence to the contrary. Applicant is advised of the obligation

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

15   not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(f) or (g) prior

art under 35 U.S.C. 103(a).

20

10.   Claims 5 -12, 23, and 24-34 are rejected under 35 U.S.C. 103(a) as being

unpatentable over DeLuca, et al in view of George, et al..

Regarding claims 5, 25 and 29, DeLuca, et al disclose:

a method of controlling a receiver station (fig. 4), said receiver station (fig. 4) including a receiver (#45, 50, 60), a memory (#10) operatively connected to said receiver, (#45, 50, 60), and at least one processors (#90) operatively connected to said memory (#llo), said method comprising the steps of:
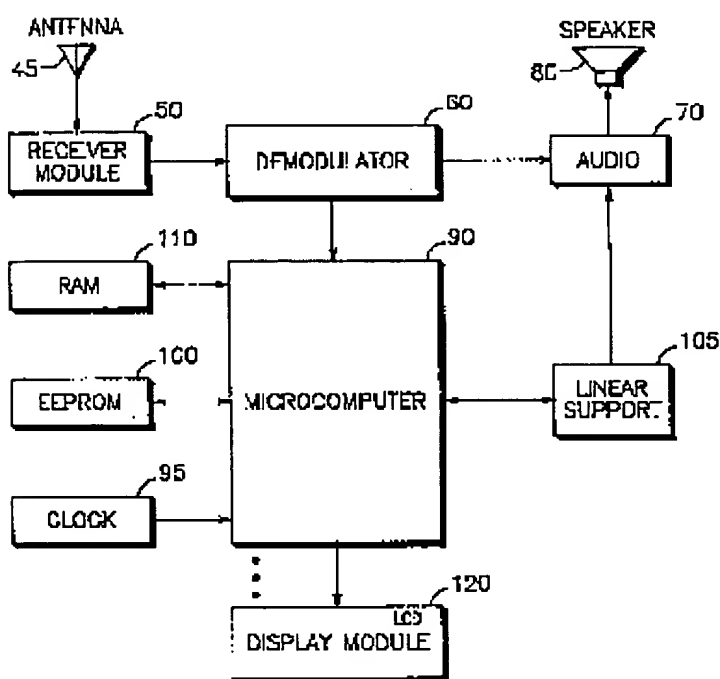
receiving an information transmission containing a program(fig. 7A);

performing a primary error correction routine (fig. 7B) by processing at least some of said information transmission;

passing information (#235) contained in said program to said memory (#110);
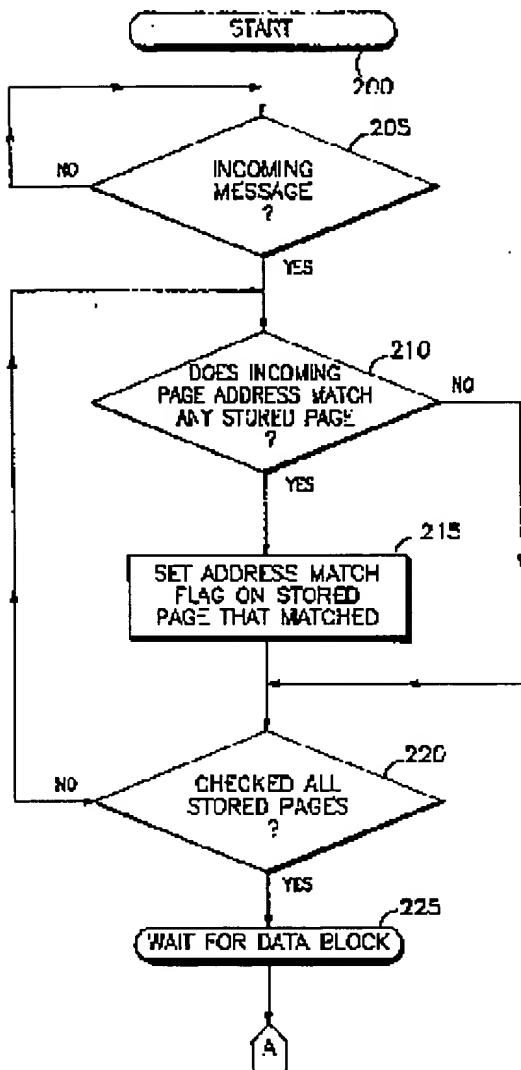
discerning a failure evidencing an incomplete or incorrect program element (#245, 275, 260) in said memory by reprocessing information (#250, 285, 290, 300) received in said information transmission; and

executing a predetermined secondary error correction routine (fig. 7C) in consequence of said step of discerning a failure (#245, 275, 260).

Regarding claim 7, DeLuca, et al disclose step of placing or replacing data (#360) at said memory (#110) to complete or correct a program element in consequence of said step of executing a predetermined secondary error correction routine (Fig. 7C).

Regarding claims 9 , DeLuca, et al show selecting a value designating an instruction to be executed; and jumping to a memory location based on said selected value (#235).

FIG. 7B
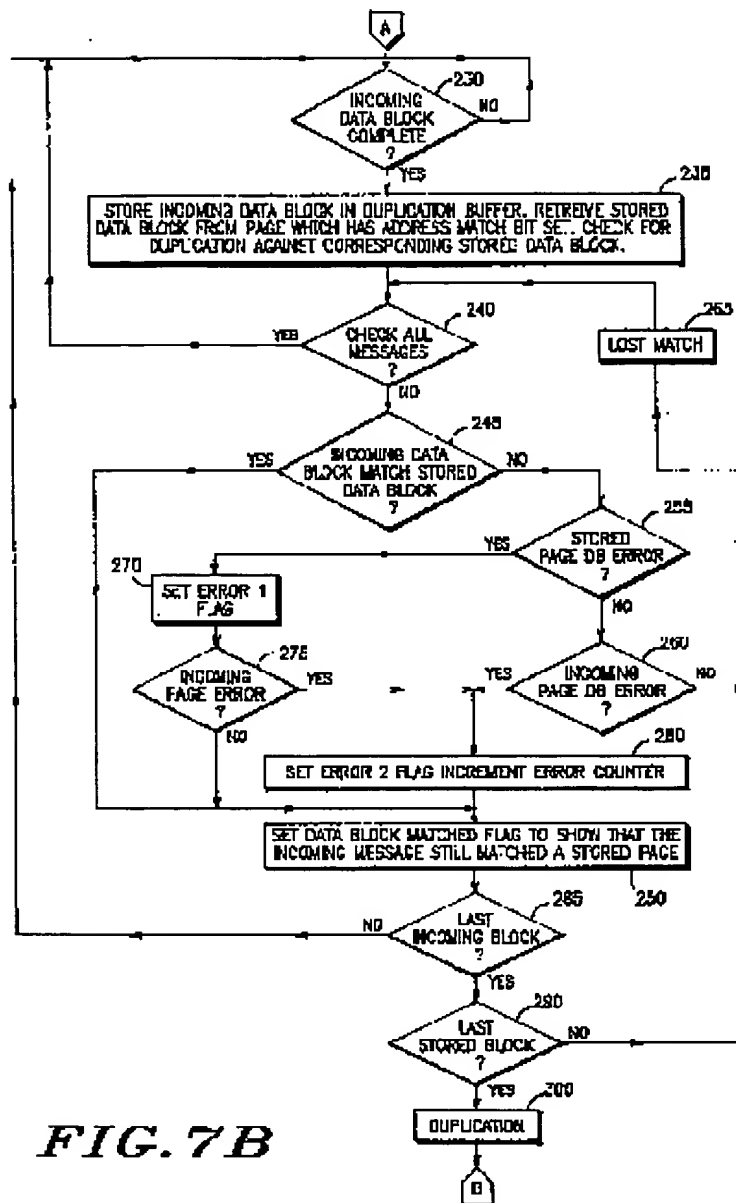
Regarding claim 10, DeLuca, et al teach the step of selecting a value comprises computing at least some an address of said memory location (#235).

Regarding claim 11, DeLuca, et al display the steps of:

storing history-of efficiency information (#330, 335); and

instituting or restoring functionality (#360) of at least one of said one or more processors (E90) based on said stored history of efficiency information (#330, 335).

FIG. 7C
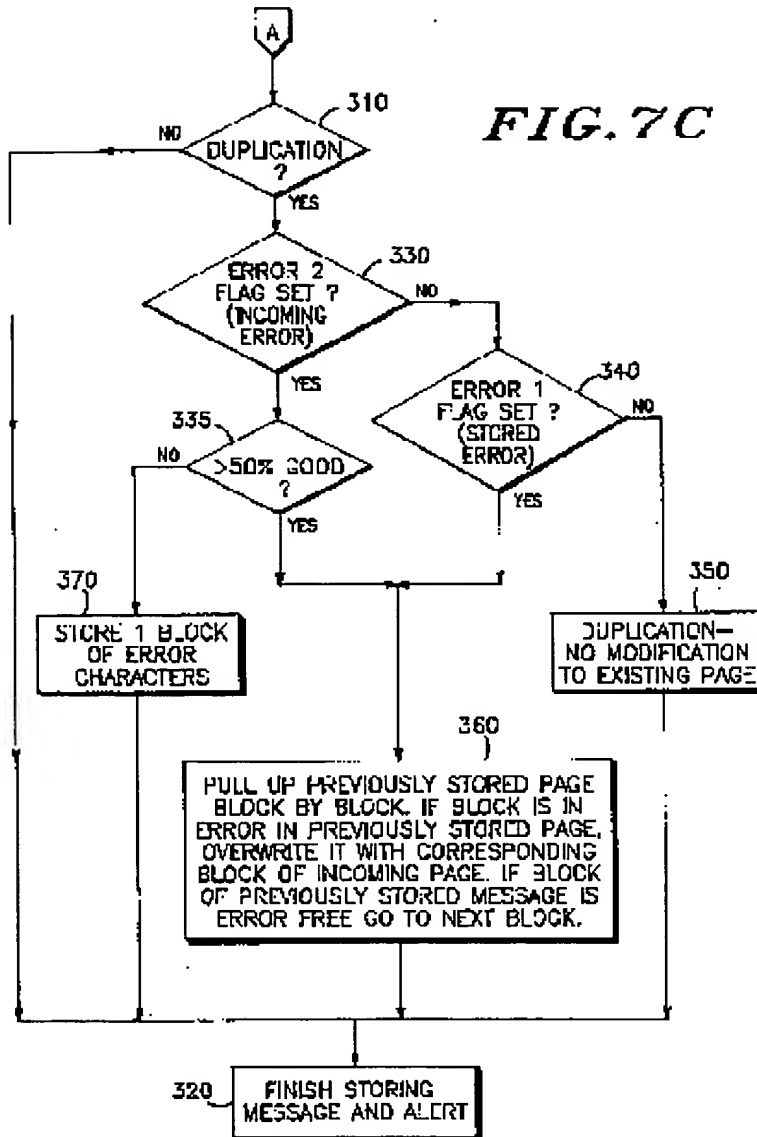
Regarding claim 12, DeLuca, et al exhibits the step of discerning a failure #245, 275, 260) comprises comparing information (#250) stored at a first memory location (fig. 6C) to information stored at a second memory location (fig. 6B).

Regarding claim 13, DeLuca, et al disclose at least one of said first memory location (fig. 6C) and said second memory location (Fig. 6B) is a dedicated register at said one or more processors (#90).

Regarding claim 14, DeLuca, et al show primary error correction routine (fig. 7B) includes forward error correction (#275, #260) and said step of discerning a failure is

based on information processed (#250) in said step of performing primary error correction.
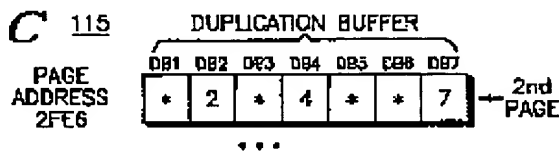
Regarding claim 15, DeLuca, et al teach incomplete or incorrect program element in said memory (#110) is one of (1) an incomplete or incorrect element of said received program (#287, #288) and (2) some or all of a second program.

FIG. 6B 110

		PAGE ADDRESS			PAGE MESSAGE						
MEMORY LOCATION					DB1	DB2	DB3	DB4	DB5	DB6	DB7
0001	$	2	Γ	E	8	1	2	3	*	5	*	7	← 1st PAGE
0002											

FIG. 6C 115

DUPLICATION BUFFER

PAGE ADDRESS 2FE6

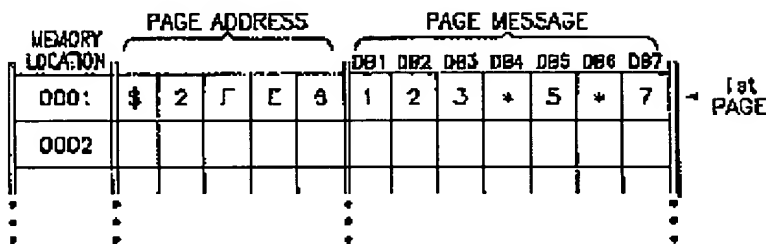| DB1	DB2	DB3	DB4	DB5	DB6	DB7
*	2	*	4	*	*	7	← 2nd PAGE

Regarding claim 16, DeLuca, et al display the method of claim 5, further comprising the step of performing forward error correction information (#275, 260) to be outputted in or with said program before performing said steps of (1) performing a primary error correction routine (fig. 7C) and (2) discerning a failure (#335).

Regarding claim 17, DeLuca, et al exhibit a step of performing a primary error correction routine (fig. 8A) further comprises selecting program material to be or not be outputted (#288) at said receiver station (fig. 4).

FIG. 8A
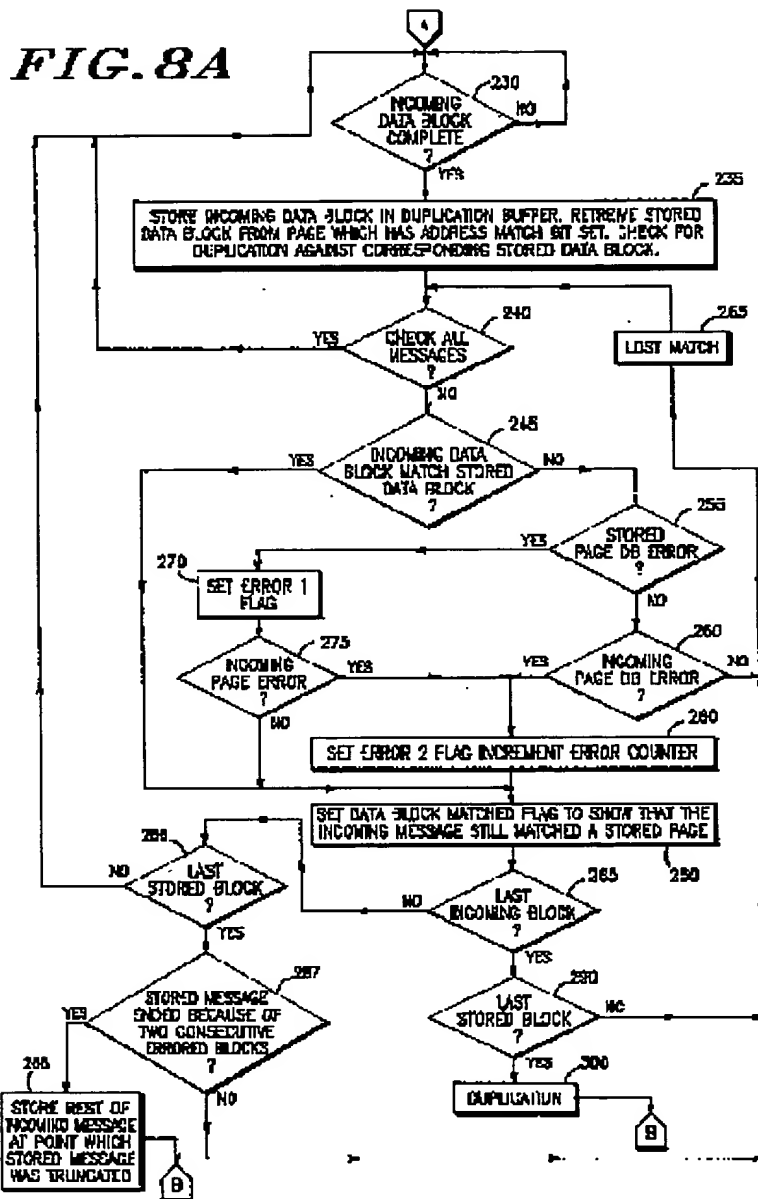
Regarding claim 18, DeLuca, et al disclose selecting program material (#360) to be or not to be outputted (#320) at said receiver station (fig. 4) in accordance with said second error correction routine (fig. 7C).

Regarding claim 19, DeLuca, et al show the program includes one or more of a television program, a radio program, a computer program, and some of a combined medium program (col. 1, 1.10-27).

Regarding claim 20, DeLuca, et al teach the step of selecting one or more of a

program instruction set intermediate generation set, combining synch command, and

data to be processed to present combined medium programming (col. 1.1.10-27).

Regarding claim 21, DeLuca, et al display the step of programming said receiver

5   station with at least some of said primary error correction routine (fig. 7B) and said

secondary error correction routine (fig. 7C).

Regarding claims 23, 27, and 30, DeLuca, et al exhibits a method of controlling

a receiver station (fig. 4), said receiver station (fig. 4) including a receiver (#45, 50, 60)

a memory (#llo) operatively connected to said receiver (#45, 50, 60) and one or more

10   processors (90) operatively connected to said memory (#45, 50, 60), comprising the

steps of:

(1) receiving an information transmission at a transmission station (fig. 1, #20);

(2) generating a program (col. 1, 1.10-35); and

(3) transmitting (#205) said information transmission containing said program

15   (col. 11.10 col. 21.5 to enable said receiver station (fig. 4) to perform a primary error

correction routine (fig. 7B) by processing at least some of said information

transmission, discerning a failure evidencing an incomplete or incorrect program

element (#287, 288) by reprocessing information received in said information

transmission (#360) and executing a predetermined secondary error correction routine

20   (fig. 7C) in consequence of discerning a failure.

Regarding claims 24 and 28, DeLuca, et al show a method of controlling a

receiver station fig. 4, said receiver station fig. 4 including a receiver (#45, 50, 60), a

memory (#110) operatively connected to said receiver (#45, 50, 60) and one or more

processors (#90) operatively connected to said memory (#110), comprising the steps

5   of:

       (1) receiving an information transmission (col. 1, 1.10-27) to be transmitted;

       (2) receiving an instruct signal (col. 2, 1.61-10 col. 31.17 which is effective to:

       (a) effect a transmission station (#20) to generate a program (col. 11.10-27),

said receiver station (fig. 4) to perform a primary error correction routine (fig. 7B) by

10   processing at least some of said information transmission discerning a failure

evidencing an incomplete or incorrect program element (#287, 288) by reprocessing

information received in said information transmission (#360), and executing a

predetermined secondary error correction routine in (fig. 7C) in consequence of

discerning a failure; or

15   (b) effect a receiver station (fig. 4) to generate a program (col. 1.10-27), said

receiver station (fig. 9) to perform a primary error correction routine (fig. 7B, AA) by

processing at least some of said information transmission, discerning a failure

evidencing an incomplete or incorrect program element by (#287, 288) by reprocessing

information received in said information transmission (#360), and executing a

predetermined secondary error correction routine (fig. 7C) in consequence of

discerning a failure;

      (3) receiving a transmitter control signal (col. 21.61 to col. 3, 1.17) which

operates at said transmitter station to (#20) to communicate said program to a

5   transmitter (#20); and

      (4) transmitting said information transmission, instruct signal and said

transmitter control signal (col. 21 1.61 to col. 3, 1.17).

      DeLuca, et al does not disclose programming the receiver station to perform a

predetermined second error correction routine in a accordance with a processor

10   instruction.

      George, et al teaches the use of programming a station (figure 1, #12) to

perform a predetermined second error correction routine in a accordance with a

processor instruction in a method for controlling a station for the purpose of

substantially in real time decoding and error correction of encoded data. Hence, it

15   would have been obvious at the time the claimed invention was made to one of

ordinary skill in the art to incorporate the use of programming the receiver station to

perform a predetermined second error correction routine in a accordance with a

processor instruction, as taught by George, et al, in the method of controlling a receiver

station of DeLuca, et al in order to substantially in real time decoding and error

20   correction of encoded data.

DeLuca, et al does not disclose clearing some or all of the memory and

interrupting a processor. The Examiner takes Official Notice that clearing some or all

the memory and interrupting a processor in a method of controlling a receiver is well

known in the art. Hence, it would have been obvious to one of ordinary skill in the art at

5   the time the claimed invention was made to incorporate the well known clearing some

or all of the memory and interrupting a processor in the method of DeLuca, et al in

order to reset the receiver when an error is detected in the program reception.

FIG. I

24 — EARLIER   OR
LATER   GREEK
ARCHITECTURE ?
ENTER "E" OR "L"

26

18

28

10

30

16

14

12

20

22
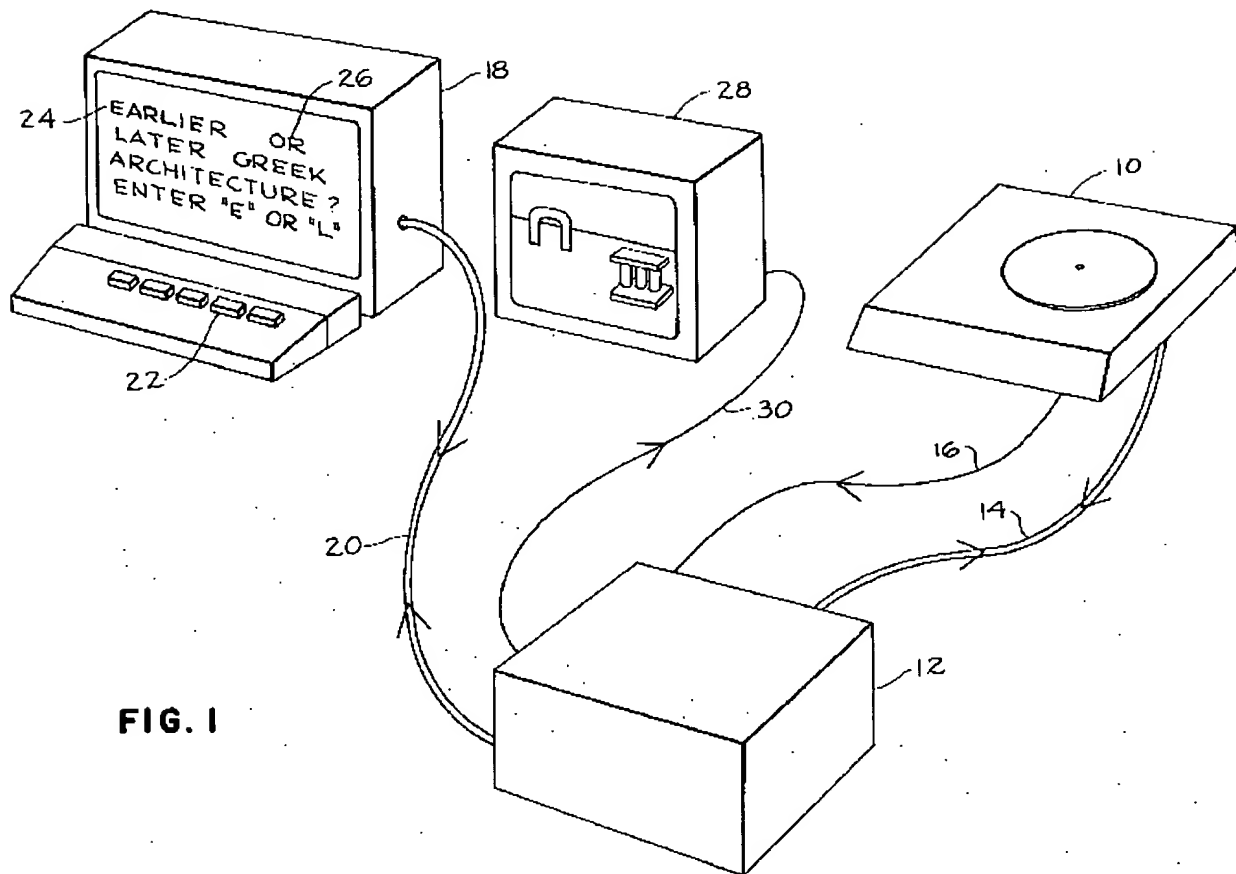
Double Patenting

11.   After reviewing the restriction requirement under 35 USC 121 in US Patent 5,233,654 it is

believed that the claims of the instant application are subject to a double patenting analysis against

US Patent 5,233,654 and US Patent 5,335,277.

12.   In view of further analysis and applicant's arguments, the rejection of the claims in the

instant application under double patenting based on the broad analysis of *In re Schneller* as set

forth in paragraphs 7-10 of the previous Office Action has been withdrawn.

5

13.   The non-statutory double patenting rejection, whether of the obviousness-type or non-

obviousness-type, is based on a judicially created doctrine grounded in public policy (a policy

reflected in the statute) so as to prevent the unjustified or improper timewise extension of the

"right to exclude" granted by a patent and to prevent possible harassment by multiple assignees.

10   *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887,

225 USPQ 645 (Fed. Cir. 1985) *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982);

In re Vogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528,

163 USPQ 644 (CCPA 1969).

15   14.   A timely filed terminal disclaimer in compliance with 37 CFR 1.321© may be used to

overcome an actual or provisional rejection based on a non-statutory double patenting ground

provided the conflicting application or patent is shown to be commonly owned with this

application. See 37 CFR 1.130(b).

20

15.   Effective January 1, 1994, a registered attorney or agent of record may sign a terminal

disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

16.   Conflicts exist between claims of the following related co-pending applications which

5   includes the present application:

#	Ser. No.	#	Ser. No.	#	Ser. No.
1	397371	2	397582	3	397636
4	435757	5	435758	6	437044
7	437045	8	437629	9	437635
10	437791	11	437819	12	437864
13	437887	14	437937	15	438011
16	438206	17	438216	18	438659
19	439668	20	439670	21	440657
22	440837	23	441027	24	441033
25	441575	26	441577	27	441701
28	441749	29	441821	30	441880
31	441942	32	441996	33	442165
34	442327	35	442335	36	442369

	37	442383	38	442505	39	442507
	40	444643	41	444756	42	444757
	43	444758	44	444781	45	444786
	46	444787	47	444788	48	444887
5	49	445045	50	445054	51	445290
	52	445294	53	445296	54	445328
	55	446123	56	446124	57	446429
	58	446430	59	446431	60	446432
	61	446494	62	446553	63	446579
10	64	447380	65	447414	66	447415
	67	447416	68	447446	69	447447
	70	447448	71	447449	72	447496
	73	447502	74	447529	75	447611
	76	447621	77	447679	78	447711
15	79	447712	80	447724	81	447726
	82	447826	83	447908	84	447938
	85	447974	86	447977	87	448099
	88	448116	89	448141	90	448143
	91	448175	92	448251	93	448309
20	94	448326	95	448643	96	448644

	97	448662		98	448667		99	448794
	100	448810		101	448833		102	448915
	103	448916		104	448917		105	448976
	106	448977		107	448978		108	448979
5	109	449097		110	449110		111	449248
	112	449263		113	449281		114	449291
	115	449302		116	449351		117	449369
	118	449411		119	449413		120	449523
	121	449530		122	449531		123	449532
10	124	449652		125	449697		126	449702
	127	449717		128	449718		129	449798
	130	449800		131	449829		132	449867
	133	449901		134	450680		135	451203
	136	451377		137	451496		138	451746
15	139	452395		140	458566		141	458699
	142	458760		143	459216		144	459217
	145	459218		146	459506		147	459507
	148	459521		149	459522		150	459788
	151	460043		152	460081		153	460085
20	154	460120		155	460187		156	460240

	157	460256		158	460274		159	460387
	160	460394		161	460401		162	460556
	163	460557		164	460591		165	460592
	166	460634		167	460642		168	460668
5	169	460677		170	460711		171	460713
	172	460743		173	460765		174	460766
	175	460770		176	460793		177	460817
	178	466887		179	466888		180	466890
	181	466894		182	467045		183	467904
10	184	468044		185	468323		186	468324
	187	468641		188	468736		189	468994
	190	469056		191	469059		192	469078
	193	469103		194	469106		195	469107
	196	469108		197	469109		198	469355
15	199	469496		200	469517		201	469612
	202	469623		203	469624		204	469626
	205	470051		206	470052		207	470053
	208	470054		209	470236		210	470447
	211	470448		212	470476		213	470570
20	214	470571		215	471024		216	471191

	217	471238	218	471239	219	471240
	220	472066	221	472399	222	472462
	223	472980	224	473213	225	473224
	226	473484	227	473927	228	473996
5	229	473997	230	473998	231	473999
	232	474119	233	474139	234	474145
	235	474146	236	474147	237	474496
	238	474674	239	474963	240	474964
	241	475341	242	475342	243	477547
10	244	477564	245	477570	246	477660
	247	477711	248	477712	249	477805
	250	477955	251	478044	252	478107
	253	478544	254	478633	255	478767
	256	478794	257	478858	258	478864
15	259	478908	260	479042	261	479215
	262	479216	263	479217	264	479374
	265	479375	266	479414	267	479523
	268	479524	269	479667	270	480059
	271	480060	272	480383	273	480392
20	274	480740	275	481074	276	482573

	277	482574	278	482857		279	483054
	280	483169	281	483174		282	483269
	283	483980	284	484275		285	484276
	286	484858	287	484865		288	485282
5	289	485283	290	485507		291	485775
	292	486258	293	486259		294	486265
	295	486266	296	486297		297	487155
	298	487397	299	487408		300	487410
	301	487411	302	487428		303	487506
10	304	487516	305	487526		306	487536
	307	487546	308	487556		309	487565
	310	487649	311	487851		312	487895
	313	487980	314	487981		315	487982
	316	487984	317	488032		318	488058
15	319	488378	320	488383		321	488436
	322	488438	323	488439		324	488619
	325	488620	326	498002		327	511491
	328	485773	329	113329			

17.   37 CFR 1.78(b) provides that when two or more applications filed by the same applicant

contain conflicting claims, elimination of such claims from all but one application may be required

in the absence of good and sufficient reason for their retention during pendency in more than one

application. The attached Appendix provides clear evidence that such conflicting claims exist

5   between the 329 related co-pending applications identified above. However, an analysis of all

claims in the 329 related co-pending applications would be an extreme burden on the Office

requiring millions of claim comparisons.

18.   In order to resolve the conflict between applications, applicant is required to either:

10   (1)   file terminal disclaimers in each of the related 329 applications terminally

disclaiming each of the other 329 applications, or;

(2)   provide an affidavit attesting to the fact that all claims in the 329 applications have

been reviewed by applicant and that no conflicting claims exists between the applications.

Applicant should provide all relevant factual information including the specific steps taken

15   to insure that no conflicting claims exist between the applications, or;

(3)   resolve all conflicts between claims in the above identified 329 applications by

identifying how all the claims in the instant application are distinct and separate inventions

from all the claims in the above identified 329 applications (note: the five examples in the

attached Appendix are merely illustrative of the overall problem. Only correcting the five

20   identified conflicts would not satisfy the requirement).

19.   *__Failure to comply with the above requirement will result in abandonment of the__*

__application__.

5   ***Response to Arguments***

20.   Applicant's arguments with respect to claims 5-24 have been considered but are

moot in view of the new ground(s) of rejection.

10

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Conclusion

21.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

McCalley, et al disclose a presentation player is described for use in an interactive digital communications system which may selectively communicate particular multimedia presentations to each of a plurality of subscribers along a CATV cable network, or other communications network. The player is part of a digital interactive system that distributes information representing requested presentations in the form of digital data on distribution channels to a plurality of presentation players located along the communications network. Each of the subscribers has a television set connected to one of these presentation players. The digital data is uniquely addressed to a particular subscriber and is processed by his corresponding presentation player to produce analog TV signals comprising the multimedia presentation. The presentation player automatically tunes itself to a distribution channel and can process data which include motion video sequences, background music, and real-time live video images, in addition to still-video images with audio commentary. The presentation player of the present invention comprises a converter capable of receiving the distribution channel frequencies and selecting one of those frequencies for further processing of digital data transmitted thereon.

22.   Applicants' amendment necessitated the new ground(s) of rejection presented in

this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a).

5

23.   A shortened statutory period for response to this final action is set to expire

THREE MONTHS from the date of this action. In the event a first response is filed

within TWO MONTHS of the mailing date of this final action and the advisory action is

not mailed until after the end of the THREE-MONTH shortened statutory period, then

10   the shortened statutory period will expire on the date the advisory action is mailed, and

any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date

of the advisory action. In no event will the statutory period for response expire later

than SIX MONTHS from the date of this final action.

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24.   This application is subject to the provisions of Public Law 103-465, effective
June 8, 1995. Accordingly, since this application has been pending for at least two
years as of June 8, 1995, taking into account any reference to an earlier filed
application under 35 U.S.C. 120, 121 or 365(c), applicant, under 37 CFR 1.129(a), is

5   entitled to have a first submission entered and considered on the merits if, prior to
abandonment, the submission and the fee set forth in 37 CFR 1.17(r) are filed prior to
the filing of an appeal brief under 37 CFR 1.192. Upon the timely filing of a first
submission and the appropriate fee of $730.00 for a large entity under 37 CFR 1.17(r),
the finality of the previous Office action will be withdrawn. If a notice of appeal and the

10   appeal fee set forth in 37 CFR 1.17(e) were filed prior to or with the payment of the fee
set forth in 37 CFR 1.17(r), the payment of the fee set forth in 37 CFR 1.17(r) by
applicant will be construed as a request to dismiss the appeal and to continue
prosecution under 37 CFR 1.129(a). In view of 35 U.S.C. 132, no amendment
considered as a result of payment of the fee set forth in 37 CFR 1.17(r) may introduce

15   new matter into the disclosure of the application.

25.   If applicants have filed multiple proposed amendments which, when entered,
would conflict with one another, specific instructions for entry or non-entry of each such
amendment should be provided upon payment of any fee under 37 CFR 1.17(r).

20

26.   Any inquiry concerning this communication or earlier communications from the

Examiner should be directed to **Primary Examiner Cumming** whose telephone

number is **(703) 305-4394.** The Examiner can normally be reached on Monday through

Thursday (and alternate Fridays) from 8:30am to 6:00pm, EST. Any inquiry of a

25   general nature or relating to the status of this application or proceeding should be

directed to the Group receptionist whose telephone number is **(703) 305-3900.**

Any response to this final action should be mailed to:

Box AF

Commissioner of Patents and Trademarks

Washington, D.C. 20231

5   **or faxed to:**

(703) 305-9051, (for formal communications; please mark

"EXPEDITED PROCEDURE")

Or:

(703) 305-9508 (for informal or draft communications, please label

10   *"PROPOSED"* or *"DRAFT"*)

Hand-delivered responses should be brought to Crystal Park II, 2021

Crystal Drive, Arlington. VA., Sixth Floor (Receptionist).

WILLIAM CUMMING
PRIMARY EXAMINER
GROUP 2600